

1 HONORABLE FRANKLIN D. BURGESS  
2  
3  
4  
5  
6  
7

8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 TODD and ANNE ERICKSON, individually and )  
11 the marital community comprised thereof, )  
12 Plaintiffs, ) NO. C08-5745-FDB  
13 v. ) DECLARATION OF JAIME ALLEN  
14 MICROAIRE SURGICAL INSTRUMENTS, )  
15 LLC, a Virginia Limited Liability Company doing )  
16 business in the State of Washington, )  
Defendant. )  
\_\_\_\_\_  
17  
18

I, Jaime Allen, hereby declare and state as follows:

1. I am over eighteen years of age and otherwise competent to testify herein. This declaration is  
21 based upon my personal knowledge.
2. I represent Defendant MicroAire Surgical Instruments, LLC ("MicroAire") in the above-  
23 entitled matter, and make my declaration in that capacity.
3. I served subpoenas on Dr. Jennifer Forshey in care of her counsel, Stephen Teller, on March  
25 31, 2010. On the same day, Mr. Teller informed me that Tony Shapiro, counsel for Plaintiffs  
26 in this matter, had informed him that he would move to quash the subpoenas.
4. MicroAire has attempted to obtain the requested information through the subpoenas to Dr.  
27 Forshey, through discovery requests to Plaintiffs, and through the public records. Plaintiffs  
28

1 have moved to quash the subpoenas and have refused to produce the materials pursuant to the  
2 discovery requests. MicroAire has obtained what is available in the public record. When I  
3 attempted to obtain deposition transcripts at MicroAire's cost directly from the court  
4 reporters who transcribed the depositions, I was told that Plaintiffs' counsel objected to the  
5 transcripts being produced, so the court reporter would not provide them. I do not know  
6 whether the court reporter was referring to Plaintiffs' present counsel or the counsel for  
7 SOMS in the *Forshey* litigation.

- 8 5. It is my understanding that Dr. Forshey is willing to travel to Seattle at MicroAire's expense  
9 and that her counsel is prepared to produce responsive, non-duplicative documents.
- 10 6. I have not seen the Settlement Agreement between SOMS and Dr. Forshey, or any part  
11 thereof. However, it is my understanding that the confidentiality provision in the Settlement  
12 Agreement between SOMS and Dr. Forshey would allow for Dr. Forshey's deposition and for  
13 her to produce documents pursuant to a subpoena.
- 14 7. Attached hereto are true and correct copies of the following documents:
  - 15 • Exhibit 1- Subpoenas served on Dr. Jennifer Forshey c/o Stephen Teller, dated March  
31, 2010.
  - 16 • Exhibit 2- Excerpts from the deposition of John Pascaloff, dated December 7, 2009.
  - 17 • Exhibit 3- Expert report of Dennis Foster.
  - 18 • Exhibit 4- Expert Report of Noel Weiss.
  - 19 • Exhibit 5- Expert Report of John Hamm.
  - 20 • Exhibit 6- Exhibit 3 to the Declaration of Anne Erickson in Opposition to Motions  
21 for Summary Judgment, filed in *Forshey v. SOMS et. al.*, (W.D. Wash. Case No. C06-  
5335RJB).
  - 22 • Exhibit 7- Order (1) Granting in Part and Denying in Part Plaintiff's Motion for  
23 Summary Judgment on Contract Claims, (2) Granting in Part and Denying in Part  
24 Plaintiff's Motion for Summary Judgment on Counterclaims; and (3) Granting and  
25 Denying Evidentiary Motions to Strike, filed in *Forshey v. SOMS et. al.*, (W.D. Wash.  
26 Case No. C06-5335RJB).
  - 27 • Exhibit 8- Stipulated Findings of Fact, Conclusions of Law and Agreed Order, filed  
28 In re: Robert T. Erickson, Department of Health, Dental Quality Assurance  
Commission, Docket No. 06-01-A-1051DE.

- Exhibit 9 - Declaration of Robert Todd Erickson, filed In re: Robert T. Erickson, Department of Health, Dental Quality Assurance Commission, Docket No. 06-01-A-1051DE.

I declare under penalty of perjury that the above information is true and correct, to the best of my knowledge.

EXECUTED in Seattle, Washington on this 26th day of April, 2010.

/s Jaime D. Allen

Jaime D. Allen

**CERTIFICATE OF SERVICE**

I hereby certify that on April 26, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Anthony D. Shapiro  
David P. Moody  
Martin D. McLean  
Hagens Berman Sobol Shapiro LLP  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101  
[tony@hbsslaw.com](mailto:tony@hbsslaw.com)  
[davidm@hbsslaw.com](mailto:davidm@hbsslaw.com)  
[martym@hbsslaw.com](mailto:martym@hbsslaw.com)

DATED this 26th day of April, 2010.

/s Jaime D. Allen

Jaime D. Allen, WSBA No. 35742  
Ogden Murphy Wallace P.L.L.C.  
1601 Fifth Ave., Suite 2100  
Seattle, WA 98101  
206.447.7000 FAX 206.447.0215  
jallen@omwlaw.com